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Governor

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Director

## ARIZONA LUXURY TAX NOTICE LTN 04-1

S.B. 1353, 46th Leg., 2d Reg. Sess. [2004 Ariz. Sess. Laws 311]

August 9, 2004

On June 1, 2004, Governor Janet Napolitano signed Senate Bill 1353 into law. The bill, aimed at curbing mail-order and Internet sales of cigarettes, snuff, chewing tobacco, and certain other tobacco products (known as **delivery sales**) to minors and preventing the evasion of any Arizona taxes due on such sales, establishes several new documentation and reporting requirements for persons that sell and deliver tobacco products to Arizona customers.

Effective August 25, 2004, **all commercial delivery services that tobacco sellers use to ship and deliver their goods to Arizona customers\*** must comply with the following procedures before completing a delivery of tobacco products:

1. Collect a signature from the person accepting delivery. Only the person who submitted the order or another adult residing at the address can sign for the delivery. The deliverer must obtain proof of the legal minimum purchase age if the signer appears to be under twenty-seven (27) years old.
2. Require the person accepting delivery to provide proof in the form of a valid, government-issued identification with photograph that the signer is the addressee or adult designated by the addressee.

Delivery services should request proof that the seller is in full compliance with Arizona tax collection and remission requirements pursuant to Arizona Revised Statutes ("A.R.S.") § 42-3227, if not already provided by the seller. One means for a delivery service to accomplish this task is to have the seller provide **written certification** containing, at a minimum, the following information:

- a. The seller's Arizona Transaction Privilege Tax or Use Tax Number and its Arizona Tobacco License Number.
- b. A statement that the seller certifies that it is in full compliance with Arizona tax collection and remission requirements and that the information on the statement is true, accurate, and complete. Furthermore, if the statement is made by an agent or

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\* Sales to a person who falls into either of the following two categories are **not** considered delivery sales to an Arizona customer: (a) Arizona licensed distributors, or (b) Tribes, tribal-owned enterprises, tribal members, or tribal member-owned entities purchasing the goods for resale on the tribe or tribal member's reservation.

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officer, that person must certify his or her authorization to execute the certificate on behalf of the seller. The signer should provide the date the document is signed and the signer's title.

Additionally, under the new laws, the tobacco seller may require a delivery service to furnish monthly reports of such deliveries that include the name of the delivery service employees making deliveries of the vendor's tobacco products.

Any person who violates the newly enacted laws can be:

1. Charged with **class 5 felony**,
2. Fined the greater of **\$1,000 or five times the retail value** of the tobacco products involved for the first violation, and
3. Fined the greater of **\$5,000 or five times the retail value** of the tobacco products for each subsequent violation.

Additionally:

4. A delivery service that delivers tobacco products to a minor in Arizona is guilty of a separate **violation of A.R.S. § 13-3622** (furnishing of tobacco to a minor).
5. Any person that, with intent to defraud this state, ships tobacco products into Arizona failing to meet any of the requirements of the new laws is subject to **forfeiture of all fixtures, equipment, and other materials and personal property** on its premises.

Please visit the Arizona Department of Revenue's website at [www.revenue.state.az.us](http://www.revenue.state.az.us) for more information.